IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 18682 of 2007(Y)

PETITIONER:

K.M. MOHANDAS, S/O. MADHAVAN,
AGED 65 YEARS, MUKRANKADU HOUSE,
KOTTEKKADU POST, PALAKKAD.

BY ADV. SRI.K.RAMAKUMAR
SRI.R.JAYACHANDRAN

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, PALAKKAD.

2. THE TAHSILDAR, PALAKKAD.

3. THE VILLAGE OFFICER, MALAMPUZHA-11.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/07/2007, ALONG WITH WPC NO. 18685 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NOs.18682 & 18685 OF 2007

DATED THIS THE 5th DAY OF JULY, 2007

JUDGMENT

The petitioners in this writ petitions complain that their applications for issue of possession certificate for the purpose of applying for permits under the Mining Mineral Concession Rules have been rejected by the 3rd respondent, Village Officer on the ground that there is a direction by the District Collector not to issue possession certificate for applying for mining permits. The petitioners seek direction to the 3rd respondent to issue possession certificates in respect of their properties.

2. The learned Government pleader submits that there have been widespread complaints in the District about illegal mining activities, as a result of which the water table is going down causing scarcity of water. It is under the above circumstance, the District Collector convened a meeting of all concerned and has taken a decision not to issue the possession certificates for mining purposes.

3. I have in several other writ petitions held that this is not the way the District Collector to stop the mining activities. Every citizen intending to engage in mining operations is entitled to apply for mining permits as provided under law. For that purpose he has to

produce the possession certificate in respect of the property in question. Necessarily, they are entitled to possession certificates also. There is no law which permits the District Collector to prohibit the issue of possession certificate on this particular ground. If the District Collector wants to prohibit mining, he has to take resort to provisions under the relevant laws and prevent issue of the permit itself, if he can illegally do so. Therefore I am satisfied that the refusal to consider the petitioners' application for possession certificates on the above ground is unsustainable.

4. Accordingly, I direct the Village Officer concerned in both the writ petitions to consider the petitioners' application for possession certificates and issue the same, if the petitioners are entitled to the same otherwise. This shall be done within a period of one month from the date of receipt of a copy of this judgment. However this will not preclude the powers of the District Collector, if any, under law, to prevent issue of permits.

The writ petitions are disposed of as above.

S. SIRI JAGAN, JUDGE

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